THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.18003 OF 2005

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Dt: 09.09.2005

Between:

Botcha Suribabau

.. Petitioner

AND

The General Manager, SAMKRG

Pistons and Rings Ltd., Srikakulam

& 2 others.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.18003 OF 2005

ORDER:

The petitioner filed I.D.No.212 of 2001 before the Industrial Tribunal-cum-Labour Court, Visakhapatnam, alleging that he was retrenched from the service of the 1st respondent in contravention of Section 25-F of the Industrial Disputes Act. He has also impleaded the 2nd respondent, the alleged labour contractor, to disprove the contention of the 1st respondent that he was employed as a contract labour. The trial

of the I.D. is in progress. The petitioner concluded his evidence, and the 2nd respondent was examined as MW.1. The 1st respondent did not examine any witness and the matter is ripe for arguments.

Petitioner filed I.A.No.260 of 2004 with a prayer to reopen the evidence of MW.1 and to summon him for further cross-examination. The Labour Court dismissed the application through its order, dated 28.01.2005. Hence, this writ petition.

Sri V. Sudhakar Reddy, learned counsel for the petitioner, submits that the necessity for the petitioner to file the I.A. arose on account of the fact that MW.1 was not cross-examined exhaustively on an assumption that the rest of the information can be elicited in the cross-examination of the witnesses that may be examined on behalf of the 1st respondent. He contends that since the 1st respondent did not examine any witnesses, it became imperative, to further cross-examine MW.1.

The specific contention of the petitioner is that he was employed by the 1st respondent. The 2nd respondent was impleaded only to rebut the contention of the 1st respondent that he was employed as a contract labour. The question as to whether the petitioner has established his claim against the 1st respondent, would emerge, depending on the nature of evidence adduced by the petitioner and the rebuttal undertaken on behalf of the 1st respondent. Having regard to the limited purpose for which the 2nd respondent was impleaded, and that no relief was claimed against him, this Court does not find any basis to interfere with the order passed by the labour Court.

It shall be open to the petitioner to put forward all his contentions during the course of hearing. Even at that stage, if the petitioner is able to impress upon the Labour Court either that MW.1 ought to have been further examined or any other steps ought to have been taken, it shall always be open to the Labour Court to pass necessary orders in that regard.

Therefore, the writ petition is disposed of upholding the order passed in I.A.No.260 of 2004 in I.D.No.212 of 2001, dated 28.01.2005, and leaving it open to the petitioner to put forward all his contentions in the arguments and making it clear that if the petitioner establishes the necessity for summoning the MW.1 for further examination or for taking any other steps, the Labour Court shall consider the feasibility of passing appropriate orders. No order as to costs.

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09.09.2005

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